

COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD
REGULATIONS FOR THE CONTROL AND ABATEMENT OF AIR POLLUTION

9 VAC 5 CHAPTER 20.
GENERAL PROVISIONS.

PART I.
Administrative.

- 9 VAC 5-20-10. Applicability.
- 9 VAC 5-20-21. Documents incorporated by reference.
- 9 VAC 5-20-50. Variances.
- 9 VAC 5-20-70. Circumvention.
- 9 VAC 5-20-80. Relationship of state regulations to federal regulations.
- 9 VAC 5-20-121. Air quality program policies and procedures.

9 VAC 5-20-10. Applicability.

A. The provisions of these regulations, unless specified otherwise, shall apply throughout the Commonwealth of Virginia.

B. The provisions of these regulations, unless specified otherwise, shall apply to only those pollutants for which ambient air quality standards are set forth in 9 VAC 5 Chapter 30 (9 VAC 5-30-10 et seq.) or for which emission standards are set forth in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.), 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.), and 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.), or both.

C. No provision of these regulations shall limit the power of the board to take such appropriate action as necessary to control and abate air pollution in emergency situations.

D. By the adoption of these regulations, the board confers upon the department the administrative, enforcement and decision making authority enumerated therein.

9 VAC 5-20-21. Documents incorporated by reference.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.

5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (2007) in effect July 1, 2007. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the central office of the Department of Environmental Quality, Eighth Floor, 629 East Main Street, Richmond, Virginia between 8:30 a.m. and 4:30 p.m. of each business day.

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

1. Code of Federal Regulations.

a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.

(1) 40 CFR Part 50 - National Primary and Secondary Ambient Air Quality Standards.

(a) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(b) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(c) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(d) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(e) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(f) Appendix F - Measurement Principle and Calibration

Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(g) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(h) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(i) Appendix I - Reserved.

(j) Appendix J - Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere.

(k) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(2) 40 CFR Part 51 - Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Appendix M - Recommended Test Methods for State Implementation Plans.

Appendix S - Emission Offset Interpretive Ruling.

Appendix W - Guideline on Air Quality Models
(Revised).

Appendix Y - Guidelines for BART Determinations
Under the Regional Haze Rule.

(3) 40 CFR Part 58 - Ambient Air Quality Surveillance.

Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

(4) 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5-50 (New and Modified Sources).

(5) 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9 VAC 5-60-60 et seq.) of Part II of 9 VAC 5-60 (Hazardous Air Pollutant Sources).

(6) 40 CFR Part 63 - National Emission Standards for Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9 VAC 5-60-90 et seq.) of Part II of 9 VAC 5-60 (Hazardous Air Pollutant Sources).

(7) 40 CFR Part 59, Subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings, Appendix A--“Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings.”

(8) 40 CFR Part 64, Compliance Assurance Monitoring.

(9) 40 CFR Part 72, Permits Regulation.

(10) 40 CFR Part 73, Sulfur Dioxide Allowance System.

(11) 40 CFR Part 74, Sulfur Dioxide Opt-Ins.

(12) 40 CFR Part 75, Continuous Emission Monitoring.

(13) 40 CFR Part 76, Acid Rain Nitrogen Oxides Emission Reduction Program.

(14) 40 CFR Part 77, Excess Emissions.

(15) 40 CFR Part 78, Appeal Procedures for Acid Rain Program.

(16) 40 CFR 59 Subpart C, National Volatile Organic Compound Emission Standards for Consumer Products.

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 783-3238.

2. U.S. Environmental Protection Agency.

a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference:

(1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

(2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, stock number 055-000-00500-1, 1995; Supplement A, stock number 055-000-00551-6, 1996; Supplement B, stock number 055-

000-00565, 1997; Supplement C, stock number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

b. Copies of the document identified in subdivision (1) of this subdivision, and Volume I and Supplements A through C of the document identified in subdivision (2) of this subdivision, may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone 1-800-553-6847. Copies of Supplements D and E of the document identified in subdivision (2) of this subdivision may be obtained online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/chief/ap42/index/html>.

3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.

4. American Society for Testing and Materials (ASTM)

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

(2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."

(3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."

(4) D388-99, "Standard Classification of Coals by Rank."

(5) D396-98, "Standard Specification for Fuel Oils."

(6) D975-98b, "Standard Specification for Diesel Fuel Oils."

(7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."

(8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."

(9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."

(10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."

(12) D523-89, "Standard Test Method for Specular Gloss" (1999).

(13) D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).

(14) D1640-95, "Standard Test Method for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).

(15) E119-00a, "Standard Test Method for Fire Tests of Building Construction Materials" (2000).

(16) E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).

(17) D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films (1998).

(18) D86-01, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure" (2001).

(19) D4359-90, "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (reapproved 2000).

(20) E260-96, "Standard Practice for Packed Column Gas Chromatography" (reapproved 2001).

(21) D3912-95, "Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants" (reapproved 2001).

(22) D4082-02, "Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants."

b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.

5. American Petroleum Institute (API)

a. The following document from the American Petroleum Institute is

incorporated herein by reference: Evaporative Loss from Floating Roof Tanks, API MPMS Chapter 19, April 1, 1997.

b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.

6. American Conference of Governmental Industrial Hygienists (ACGIH)

a. The following document from the ACGIH is incorporated herein by reference: 1991-1992 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.

7. National Fire Prevention Association (NFPA)

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 2000 Edition.

(3) NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2000 Edition.

b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.

8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1--1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical

Engineers, Three Park Avenue, New York, New York, 10016; phone (800) 843-2763.

9. American Hospital Association (AHA)

a. The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

b. Copies may be obtained from: American Hospital Association, One North Franklin, Chicago, IL 60606; phone (800) 242-2626.

10. Bay Area Air Quality Management District (BAAQMD)

a. The following documents from the Bay Area Air Quality Management District are incorporated herein by reference:

(1) Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (December 20, 1995).

(2) Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (November 6, 1996).

b. Copies may be obtained from: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, phone (415) 771-6000.

11. South Coast Air Quality Management District (SCAQMD)

a. The following documents from the South Coast Air Quality Management District are incorporated herein by reference:

(1) Method 303-91, "Determination of Exempt Compounds," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(2) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(3) Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991).

b. Copies may be obtained from: South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765, phone (909) 396-2000.

12. California Air Resources Board (CARB)

a. The following documents from the California Air Resources Board

are incorporated herein by reference:

(1) Test Method 510, "Automatic Shut-Off Test Procedure For Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(2) Test Method 511, "Automatic Closure Test Procedure For Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(3) Test Method 512, "Determination Of Fuel Flow Rate For Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(4) Test Method 513, "Determination Of Permeation Rate For Spill-Proof Systems" (July 6, 2000).

(5) Test Method 310 (including Appendices A and B), "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products" (July 18, 2001).

(6) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1, § 94503.5 (2003).

(7) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2, §§ 94509 and 94511 (2003).

(8) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 4, §§ 94540-94555 (2003).

b. Copies may be obtained from: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, phone (906) 322-3260 or (906) 322-2990.

13. American Architectural Manufacturers Association

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

(1) Voluntary Specification 2604-02, "Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels" (2002).

(2) Voluntary Specification 2605-02, "Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels" (2002).

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173, phone (847) 303-5664.

14. American Furniture Manufacturers Association

a. The following document from the American Furniture Manufacturers Association is incorporated herein by reference: Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (January 2001).

b. Copies may be obtained from: American Furniture Manufacturers Association, P.O. Box HP-7, High Point, NC 27261; phone (336) 884-5000.

9 VAC 5-20-50. Variances.

A. Fuel variance.

1. Regardless of any other provision of this section, the executive director may issue an order granting a fuel variance for fuel burning equipment from applicable provisions of these regulations if, after a thorough investigation and public hearing, he finds that:

a. The owner, in good faith and prior to the request for the fuel variance, has attempted to comply with applicable provisions of these regulations;

b. The owner has substantial cause to believe he will be unable to obtain the fuel to operate the equipment in compliance with applicable provisions of these regulations;

c. The maximum particulate and sulfur dioxide emissions from fuels permitted in the fuel variance would be the lowest that the available fuels will permit;

d. The need for the requested fuel variance could not have been avoided by the owner; and

e. The period of the fuel variance will not exceed the reasonably predicted shortage of fuel which would allow compliance with these regulations, or 180 days, whichever is less.

2. The owner requesting the fuel variance shall submit the following, where appropriate, to the executive director:

a. The requested commencement and termination dates of the fuel variance;

b. The type and quantity of fuel to be used under the requested fuel variance, along with the maximum ash and sulfur content, if any;

c. An affidavit stating why the owner is unable to, or has substantial cause to believe that he will be unable to, obtain fuel which would allow compliance with applicable provisions of these regulations;

- d. An estimate of the amount of fuel to be conserved;
- e. An estimate of the increased air pollutants that might cause violations of the ambient air quality standards;
- f. An estimate, with reasons given, of the duration of the shortage of fuel which would allow compliance with applicable provisions of these regulations; and
- g. Such other information as the executive director may require to make his findings as provided in subdivision 1 of this subsection.

3. Notice of public hearings on applications for fuel variances shall be advertised at least 10 days prior to the date of the hearing, in at least one major newspaper of general circulation in the air quality control region in which the affected source is located. The notice shall contain the subject, date, time and place of the public hearing. The public hearing shall be conducted to give the public an opportunity to comment on the variance.

4. Fuel variances may be granted only for individual sources, and not for categories or classes.

5. No fuel variance shall be granted for more than 180 days. Any request for a variance for a period beyond 180 days shall be governed by the provisions of 9 VAC 5-170-140, except that the board, where appropriate, may require compliance with any of the conditions and requirements here.

6. Fuel variances may be amended or revoked in the manner provided for in 9 VAC 5-170-140 except that only a 10-day notice shall be required.

B. Nothing in this section shall be construed to limit, alter or otherwise affect the obligation of any person to comply with any provision of these regulations not specifically affected by this section.

9 VAC 5-20-70. Circumvention.

A. No owner or other person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air pollutants emitted, conceals or dilutes an emission of air pollutants which would otherwise violate this chapter. Such concealment includes, but is not limited to, either of the following:

1. The use of gaseous diluents to achieve compliance with a visible emissions standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

2. The piecemeal carrying-out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

B. This section does not prohibit the construction of a stack.

9 VAC 5-20-80. Relationship of state regulations to federal regulations.

A. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of these regulations are required to be approved by the U.S. Environmental Protection Agency and when approved those provisions become federally enforceable.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing or specifically provide for decisions to be made by the board or department, it may be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) reviewed and confirmed as acceptable or approved by the U.S. Environmental Protection Agency in order to make them federally enforceable. Determination of which state actions require federal confirmation or approval and the administrative mechanism for making associated confirmation or approval decisions shall be made on a case-by-case basis in accordance with U.S. Environmental Protection Agency regulations and policy.

9 VAC 5-20-121. Air quality program policies and procedures.

A. General.

1. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of these regulations are required to be approved by the U.S. Environmental Protection Agency as part of the State Implementation Plan and when approved those provisions become federally enforceable.

2. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing or specifically provide for decisions to be made by the board or department, it may also be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) approved by the U.S. Environmental Protection Agency as part of the State Implementation Plan in order to make them federally enforceable. In accordance with U.S. Environmental Protection Agency regulations and policy, it has been determined that it is necessary for the procedures listed in subsection B of this section to be approved as part of the State Implementation Plan.

3. Failure to include in this section any procedure mentioned in the regulations shall not invalidate the applicability of the procedure.

4. Copies of materials listed in this section may be examined by the public at the central office of the Department of Environmental Quality, 629 E. Main St., Richmond, Virginia between 8:30 a.m. and 4:30 p.m. of each business day.

B. Specific documents.

1. Procedures for Testing Facilities Subject to Emission Standards for

Volatile Organic Compounds, AQP-1, July 1, 1991.

2. Procedures for Determining Compliance with Volatile Organic Compound Emission Standards Covering Surface Coating Operations, AQP-2, July 1, 1991.

3. Procedures for the Measurement of Capture Efficiency for Determining Compliance with Volatile Organic Compound Emission Standards Covering Surface Coating Operations and Graphic Arts Printing Processes, AQP-3, April 1, 1996.

4. Procedures for Maintaining Records for Surface Coating Operations and Graphic Arts Printing Processes, AQP-4, July 1, 1991.

5. Procedures for Preparing and Submitting Emission Statements for Stationary Sources, AQP-8, January 1, 1993.

6. Procedures for Implementation of Regulations Covering Stage II Vapor Recovery Systems for Gasoline Dispensing Facilities, AQP-9, January 1, 1993.

PART II. Air Quality Programs.

9 VAC 5-20-160. Registration.

9 VAC 5-20-170. Control programs.

9 VAC 5-20-180. Facility and control equipment maintenance or malfunction.

9 VAC 5-20-200. Air quality control regions (AQCR).

9 VAC 5-20-201. Urban areas.

9 VAC 5-20-202. Metropolitan statistical areas (MSA).

9 VAC 5-20-203. Air quality maintenance areas (AQMA).

9 VAC 5-20-204. Nonattainment areas.

9 VAC 5-20-205. Prevention of significant deterioration areas.

9 VAC 5-20-206. Volatile organic compound and nitrogen oxides emissions control areas.

9 VAC 5-20-220. Shutdown of a stationary source.

9 VAC 5-20-230. Certification of documents.

9 VAC 5-20-160. Registration.

A. The owner of any stationary source to which permits are issued under 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) or for which emission standards are given in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.), 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.), and 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.) shall, upon request of the board, register such source operations with the board and update such registration information. The information required for registration shall be determined by the board and shall be provided in the manner specified by the board. Owners should review the emission standard for their respective source type to identify the exemption levels for purposes of this section.

B. The owner of any stationary source emitting 25 tons per year or more of volatile

organic compounds or nitrogen oxides and located in any emissions control area designated in 9 VAC 5-20-206 shall submit an emissions statement to the board by April 15 of each year, beginning in 1993, for the emissions discharged during the previous calendar year. Emissions statements shall be prepared and submitted in accordance with the applicable procedure in 9 VAC 5-20-121.

9 VAC 5-20-170. Control programs.

A. Under the provisions of 9 VAC 5-20-30 A, the board may require an owner of a stationary source to submit a control program, in a form and manner satisfactory to the board, showing how compliance shall be achieved as quickly as possible.

B. The board shall act within 90 days of receiving an acceptable control program. A public hearing will be held within this period. The hearing shall be held only after reasonable notice, at least 30 days prior to the hearing date, which shall include:

1. Notice given to the public by advertisement in at least one major newspaper of general circulation in the affected air quality control region;
2. Availability of the information in the control program (exclusive of confidential information under the provisions of 9 VAC 5-20-150) for public inspection in at least one location in the affected air quality control region; and
3. Notification to all local air pollution control agencies having State Implementation Plan responsibilities in the affected air quality control region, all states sharing the affected air quality control region, and the regional administrator of the U.S. Environmental Protection Agency.

C. When acting upon control programs, the board shall be guided by the provisions of the federal Clean Air Act.

D. The board may require owners submitting a control program to submit periodic progress reports in the form and manner acceptable to the board.

E. The board normally will take action on all control programs within 30 days after the date of the public hearing unless more information is required. The board shall notify the applicant in writing of its decision on the control program and shall set forth its reasons for that.

F. The owner may appeal the decision pursuant to 9 VAC 5-20-90.

9 VAC 5-20-180. Facility and control equipment maintenance or malfunction.

A. The provisions of this section apply to periods of excess emissions resulting from (i) the shutdown or bypassing, or both, of air pollution control equipment for necessary scheduled maintenance and (ii) malfunctions or other equipment failures of any affected facility or related air pollution control equipment.

B. In case of shutdown or bypassing, or both, of air pollution control equipment for necessary scheduled maintenance which results in excess emissions for more than one hour, the intent to shut down such equipment shall be reported to the board and local air pollution control agency, if any, at least 24 hours prior to the planned shutdown. Such prior notice shall include, but is not limited to, the following:

1. Identification of the specific facility to be taken out of service as well as its location and permit or registration number;
2. The expected length of time that the air pollution control equipment will be out of service;
3. The nature and quantity of emissions of air pollutants likely to occur during the shutdown period; and
4. Measures that will be taken to minimize the length of the shutdown and to negate the effect of the outage of the air pollution control equipment.

C. In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than four daytime business hours after the malfunction is discovered, notify the board by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within two weeks provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. Owners subject to the requirements of 9 VAC 5-40-50 C and 9 VAC 5-50-50 C are not required to provide the written statement prescribed in this subsection for facilities subject to the monitoring requirements of 9 VAC 5-40-40 and 9 VAC 5-50-40. When the condition causing the failure or malfunction has been corrected and the facility or control equipment is again in operation, the owner shall notify the board.

D. In the event that the breakdown period cited in subsection C of this section exists or is expected to exist for 30 days or more, the owner shall, as expeditiously as possible but no later than 30 days after the failure or malfunction and semi-monthly thereafter until the failure or malfunction is corrected, submit to the board a written report containing the following:

1. Identification of the specific facility that is affected as well as its location and permit or registration number;
2. The expected length of time that the air pollution control equipment will be out of service;
3. The nature and quantity of air pollutant emissions likely to occur during the breakdown period;
4. Measures to be taken to reduce emissions to the lowest amount practicable during the breakdown period;

5. A statement as to why the owner was unable to obtain repair parts or perform repairs which would allow compliance with the Regulations for the Control and Abatement of Air Pollution within 30 days of the malfunction or failure;

6. An estimate, with reasons given, of the duration of the shortage of repairs or repair parts which would allow compliance with the Regulations for the Control and Abatement of Air Pollution; and

7. Any other pertinent information as may be requested by the board.

E. The provisions of subsection D of this section shall not apply beyond three months of the date of the malfunction or failure. Should the breakdown period exist past the three-month period, the owner may apply for a variance in accordance with 9 VAC 5-20-50 A.

F. The following special provisions govern facilities which are subject to the provisions of Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50, Article 1 (9 VAC 5-60-60 et seq.) of Part II of 9 VAC 5 Chapter 60, or Article 2 (9 VAC 5-60-90 et seq.) of Part II of 9 VAC 5 Chapter 60:

1. For sources subject to the applicable subparts listed in 9 VAC 5-50-410, any provisions governing malfunctions shall be implemented through this section. In cases where there are differences between the provisions of this section and the provisions of 40 CFR Part 60, the more restrictive provisions shall apply.

2. For sources subject to the applicable subparts listed in 9 VAC 5-60-70, any provisions governing malfunctions shall be implemented through this section. In cases where there are differences between the provisions of this section and the provisions of 40 CFR Part 61, the more restrictive provisions shall apply.

3. For sources subject to the applicable subparts listed in 9 VAC 5-60-100, any provisions governing malfunctions shall be implemented through this section. In cases where there are differences between the provisions of this section and the provisions of 40 CFR Part 63, the more restrictive provisions shall apply.

G. No violation of applicable emission standards or monitoring requirements shall be judged to have taken place if the excess emissions or cessation of monitoring activities is due to a malfunction, provided that:

1. The procedural requirements of this section were met or the owner has submitted an acceptable application for a variance, which is subsequently granted;

2. The owner has taken expeditious and reasonable measures to minimize emissions during the breakdown period;

3. The owner has taken expeditious and reasonable measures to correct the malfunction and return the facility to a normal operation; and

4. The source is in compliance at least 90% of the operating time over the most recent 12-month period.

H. Nothing in this section shall be construed as giving an owner the right to increase temporarily the emission of pollutants or to circumvent the emission standards or monitoring requirements otherwise provided in the Regulations for the Control and Abatement of Air Pollution.

I. Regardless of any other provision of this section, the owner of any facility subject to the Regulations for the Control and Abatement of Air Pollution shall, upon request of the board, reduce the level of operation at the facility if the board determines that this is necessary to prevent a violation of any primary ambient air quality standard. Under worst case conditions, the board may order that the owner shut down the facility, if there is no other method of operation to avoid a violation of the primary ambient air quality standard. The board reserves the right to prescribe the method of determining if a facility will cause such a violation. In such cases, the facility shall not be returned to operation until it and the associated air pollution control equipment are able to operate without violation of any primary ambient air quality standard.

J. Any owner of an affected facility subject to the provisions of this section shall maintain records of the occurrence and duration of any bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment that results in excess emissions for more than one hour. The records shall be maintained in a form suitable for inspection and maintained for at least two years (unless a longer period is specified in the applicable emission standard) following the date of the occurrence.

9 VAC 5-20-200. Air Quality Control Regions.

Region 1 - Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region (Virginia)

The Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region (Virginia portion) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Bland	Lee	Washington
Buchanan	Russell	Wise
Carroll	Scott	Wythe
Dickenson	Smyth	
Grayson	Tazewell	

CITIES

Bristol	Galax	Norton
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Region 2 - Valley of Virginia Intrastate Air Quality Control Region

The Valley of Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Alleghany	Floyd	Pulaski
Augusta	Frederick	Roanoke
Bath	Giles	Rockbridge
Botetourt	Highland	Rockingham
Clarke	Montgomery	Shenandoah
Craig	Page	Warren

CITIES

Buena Vista	Lexington	Staunton
Clifton Forge	Radford	Waynesboro
Covington	Roanoke	Winchester
Harrisonburg	Salem	

Region 3 - Central Virginia Intrastate Air Quality Control Region

The Central Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Amelia	Campbell	Lunenburg
Amherst	Charlotte	Mecklenburg
Appomattox	Cumberland	Nottoway
Bedford	Franklin	Patrick
Brunswick	Halifax	Pittsylvania
Buckingham	Henry	Prince Edward

CITIES

Bedford	Lynchburg	South Boston
Danville	Martinsville	

Region 4 - Northeastern Virginia Intrastate Air Quality Control Region

The Northeastern Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described

area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Accomack	King and Queen	Northampton
Albemarle	King George	Northumberland
Caroline	King William	Orange
Culpeper	Lancaster	Rappahannock
Essex	Louisa	Richmond
Fauquier	Madison	Spotsylvania
Fluvanna	Mathews	Stafford
Gloucester	Middlesex	Westmoreland
Greene	Nelson	

CITIES

Charlottesville	Fredericksburg
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Region 5 - State Capital Intrastate Air Quality Control Region

The State Capital Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Charles City	Henrico
Chesterfield	New Kent
Dinwiddie	Powhatan
Goochland	Prince George
Greensville	Surry
Hanover	Sussex

CITIES

Colonial Heights	Petersburg
Emporia	Richmond
Hopewell	

Region 6 - Hampton Roads Intrastate Air Quality Control Region

The Hampton Roads Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Isle of Wight	Southampton
James City	York

CITIES

Chesapeake	Poquoson
Franklin	Portsmouth
Hampton	Suffolk
Newport News	Virginia Beach
Norfolk	Williamsburg

Region 7 - National Capital Interstate Air Quality Control Region (Virginia)

The National Capital Interstate Air Quality Control Region (Virginia portion) consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all localities geographically located within the outermost boundaries of the area so delimited):

COUNTIES

Arlington	Loudoun
Fairfax	Prince William

CITIES

Alexandria	Manassas
Fairfax	Manassas Park
Falls Church	

NOTE: In addition to the air quality control regions delineated herein which form the geographic basis for the legal applicability of the regulations and air quality programs, there are administrative regions for all types of administrative actions (such as permit processing and responding to public inquiries). This is done because it is necessary for administrative purposes that certain localities be in regions other than those listed above. This administrative delineation in no way alters the applicability of the regulations. Maps showing boundaries for both air quality control regions and administrative regions, and lists showing the assignment of localities for both, are available from the department on request.

9 VAC 5-20-201. Urban Areas.

Urban Areas are geographically defined as follows:

Title	Geographical Area
Lynchburg Urban Area	Lynchburg City

	Campbell County
Newport News - Hampton Urban Areas	Hampton City Newport News City Poquoson City Williamsburg City James City County York County
Norfolk - Portsmouth Urban Area	Chesapeake City Norfolk City Portsmouth City Suffolk City Virginia Beach City
Petersburg - Colonial Heights Urban Area	Colonial Heights City Hopewell City Petersburg City
Richmond Urban Area	Richmond City Chesterfield County Hanover County Henrico County
Roanoke Urban Area	Roanoke City Salem City *Roanoke County
National Capital Urban Area	Alexandria City Fairfax City Falls Church City Manassas City Manassas Park City Arlington County Fairfax County Loudoun County Prince William County

* Does not include those portions of the county designated as rural village or rural preserve in the Roanoke County Comprehensive Development Plan approved by the Roanoke County Board of Supervisors on June 25, 1985.

9 VAC 5-20-202. Metropolitan statistical areas.

Metropolitan Statistical Areas are geographically defined as follows:

Title	Geographical Area
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Bristol MSA	Bristol City Scott County Washington County
Charlottesville MSA	Charlottesville City Albemarle County Fluvanna County Greene County
Danville MSA	Danville City Pittsylvania County
Lynchburg MSA	Bedford City Lynchburg City Amherst County Bedford County Campbell County
Norfolk-Virginia Beach-Newport News MSA	Chesapeake City Norfolk City Portsmouth City Suffolk City Virginia Beach City Hampton City Newport News City Poquoson City Williamsburg City Gloucester County Isle of Wight County James City County Mathews County York County
Richmond-Petersburg MSA	Richmond City Colonial Heights City Hopewell City Petersburg City Charles City County Chesterfield County Goochland County Hanover County Henrico County New Kent County Powhatan County Prince George County Dinwiddie County
Roanoke MSA	Roanoke City

National Capital MSA

Salem City
Botetourt County
Roanoke County

Alexandria City
Fairfax City
Falls Church City
Fredericksburg City
Manassas City
Manassas Park City
Arlington County
Clarke County
Culpeper County
Fairfax County
Fauquier County
King George County
Loudoun County
Prince William County
Spottsylvania County
Stafford County
Warren County

9 VAC 5-20-203. Maintenance areas.

Maintenance areas are geographically defined below by locality for the criteria pollutants indicated.

1. Ozone.

Fredericksburg Ozone Maintenance Area.

Spottsylvania County
Stafford County

Fredericksburg City

Hampton Roads Ozone Maintenance Area.

James City County
York County
Chesapeake City
Hampton City
Newport News City
Norfolk City

Poquoson City
Portsmouth City
Suffolk City
Virginia Beach City
Williamsburg City

Richmond Ozone Maintenance Area.

Charles City County^{*}
Chesterfield County
Hanover County

Colonial Heights City
Hopewell City
Richmond City

Henrico County

- * Beginning at the intersection of State Route 156 and the Henrico/Charles City County Line, proceeding south along State Route 5/156 to the intersection with State Route 106/156, proceeding south along Route 106/156 to the intersection with the Prince George/Charles City County line, proceeding west along the Prince George/Charles City County line to the intersection with the Chesterfield/Charles City County line, proceeding north along the Chesterfield/Charles City County line to the intersection with the Henrico/Charles City County line, proceeding north along the Henrico/Charles City County line to State Route 156.

Shenandoah National Park Ozone Maintenance Area.

Madison County (portions located in Shenandoah National Park)
Page County (portions located in Shenandoah National Park)

2. Carbon monoxide.

Northern Virginia Carbon Monoxide Maintenance Area.

Arlington County

Alexandria City

3. All other pollutants.

None.

9 VAC 5-20-204. Nonattainment areas.

A. Nonattainment areas are geographically defined below by locality for the criteria pollutants indicated. Following the name of each ozone nonattainment area, in parenthesis, is the classification assigned pursuant to § 181(a) of the federal Clean Air Act (42 USC § 7511(a)) and 40 CFR 51.903(a).

1. Ozone (1-hour).

Northern Virginia Ozone Nonattainment Area (severe).

Arlington County

Alexandria City

Fairfax County

Fairfax City

Loudoun County

Falls Church City

Prince William County

Manassas City

Stafford County

Manassas Park City

2. Ozone (8-hour).

Northern Virginia Ozone Nonattainment Area (moderate).

Arlington County
Fairfax County
Loudoun County
Prince William County
Alexandria City

Fairfax City
Falls Church City
Manassas City
Manassas Park City

Hampton Roads Ozone Nonattainment Area (marginal).

Gloucester County
Isle of Wight County
James City County
York County
Chesapeake City
Hampton City
Newport News City

Poquoson City
Portsmouth City
Norfolk City
Suffolk City
Virginia Beach City
Williamsburg City

Richmond Ozone Nonattainment Area (marginal).

Charles City County
Chesterfield County
Hanover County
Henrico County
Prince George County

Colonial Heights City
Hopewell City
Petersburg City
Richmond City

3. PM_{2.5} (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers)

Northern Virginia PM_{2.5} Nonattainment Area.

Arlington County
Fairfax County
Loudoun County
Prince William County

Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

4. All other pollutants.

None.

B. Subdivision A 1 of this section shall not be effective after June 15, 2005.

9 VAC 5-20-205. Prevention of significant deterioration areas.

A. Prevention of significant deterioration areas are geographically defined below by locality for the following criteria pollutants:

1. Particulate Matter.

VAC 5-20-204. All areas not designated nonattainment for particulate matter in 9

2. Sulfur Dioxide.

20-204. All areas not designated nonattainment for sulfur dioxide in 9 VAC 5-

3. Carbon Monoxide.

VAC 5-20-204. All areas not designated nonattainment for carbon monoxide in 9

4. Ozone (volatile organic compounds).

All areas not designated nonattainment for ozone in 9 VAC 5-20-204.

5. Nitrogen Oxides.

5-20-204. All areas not designated nonattainment for nitrogen oxides in 9 VAC

6. Lead.

All areas not designated nonattainment for lead in 9 VAC 5-20-204.

B. All areas of the state are geographically defined as Prevention of Significant Deterioration Areas for the following pollutants:

Fluorides

Sulfuric acid mist

Total reduced sulfur:

Hydrogen sulfide

Methyl mercaptan

Dimethyl sulfide

Dimethyl disulfide

Reduced sulfur compounds:

Hydrogen sulfide

Carbon disulfide

Carbonyl sulfide

Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)

Municipal waste combustor metals (measured as particulate matter)

Municipal waste combustor acid gases (measured as the sum of SO₂ and HCl)

C. The classification of Prevention of Significant Deterioration Areas is as follows:

1. Class I.

a. Federal - James River Face Wilderness Area (located in AQCR 2) and Shenandoah National Park (located in AQCR 2 and AQCR 4).

b. State - None.

2. Class II - All areas of the State not designated in Class I.

3. Class III - None.

4. The area classification prescribed in subsection C of this section may be redesignated in accordance with 40 CFR 52.21(e), (g), (u) and (t).

9 VAC 5-20-206. Volatile organic compound and nitrogen oxides emissions control areas.

Emissions Control Areas are geographically defined below by locality for the pollutants indicated.

1. Volatile Organic Compounds.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Fredericksburg Emissions Control Area.

Spotsylvania County	Fredericksburg City
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c. Richmond Emissions Control Area.

Charles City County
Chesterfield County
Hanover County
Henrico County
Prince George County

Colonial Heights City
Hopewell City
Petersburg City
Richmond City

d. Hampton Roads Emissions Control Area.

Gloucester County
Isle of Wight County
James City County
York County
Chesapeake City
Hampton City
Newport News City

Norfolk City
Poquoson City
Portsmouth City
Suffolk City
Virginia Beach City
Williamsburg City

e. Western Virginia Emissions Control Area

Botetourt County
Frederick County
Roanoke County

Roanoke City
Salem City
Winchester City

2. Nitrogen Oxides.

a. Northern Virginia Emissions Control Area.

Arlington County
Fairfax County
Loudoun County
Prince William County
Stafford County

Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

b. Fredericksburg Emissions Control Area.

Spotsylvania County

Fredericksburg City

c. Richmond Emissions Control Area.

Charles City County
Chesterfield County
Hanover County
Henrico County
Prince George County

Colonial Heights City
Hopewell City
Petersburg City
Richmond City

d. Hampton Roads Emissions Control Area.

Gloucester County

Norfolk City

Isle of Wight County
James City County
York County
Chesapeake City
Hampton City
Newport News City

Poquoson City
Portsmouth City
Suffolk City
Virginia Beach City
Williamsburg City

e. Western Virginia Emissions Control Area

Botetourt County
Frederick County
Roanoke County

Roanoke City
Salem City
Winchester City

9 VAC 5-20-220. Shutdown of a stationary source.

A. Upon a final decision by the board that a stationary source or emissions unit is shut down permanently, the board shall revoke any permits by written notification to the owner and remove the stationary source or emissions unit from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the stationary source or emissions unit shall not commence operation without a permit being issued under the applicable provisions of 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.).

B. The final decision shall be rendered as follows:

1. Upon a determination that the stationary source or emissions unit has not operated for a year or more, the board shall provide written notification to the owner (i) of its proposed decision that the stationary source or emissions unit is considered to be shut down permanently and (ii) that if the owner fails to provide within three months of the notice written response to the board that the shutdown is not to be considered permanent, the decision shall become final within six months of the notice. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart-up of the stationary source or emissions unit.

2. If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an unreasonably long period of inoperation, the decision to consider the shutdown permanent shall become final one year after the date of the notice of the proposed decision.

C. Nothing in any regulation of the board shall be construed to prevent the board and the owner from making a mutual determination that a stationary source or emissions unit is shut down permanently prior to any final decision rendered under subsection A of this section.

9 VAC 5-20-230. Certification of documents.

A. The following documents submitted to the board shall be signed by a responsible official: (i) any emission statement, application, form, report, or compliance certification; (ii) any document required to be so signed by any provision of the regulations of the board; or

(iii) any other document containing emissions data or compliance information the owner wishes the board to consider in the administration of its air quality programs. A responsible official is defined as follows:

1. For a business entity, such as a corporation, association or cooperative, a responsible official is either:

a. The president, secretary, treasurer, or a vice president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or

b. A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars) or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.

2. For a partnership or sole proprietorship, a responsible official is a general partner or the proprietor, respectively.

3. For a municipality, state, federal, or other public agency, a responsible official is either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

B. Any person signing a document under subsection A of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. Subsection B of this section shall be interpreted to mean that the signer must have some form of direction or supervision over the persons gathering the data and preparing the document (the preparers), although the signer need not personally nor directly supervise these activities. The signer need not be in the same line of authority as the preparers, nor do the persons gathering the data and preparing the form need to be employees (e.g., outside contractors can be used). It is sufficient that the signer has authority to assure that the necessary actions are taken to prepare a complete and accurate document.

D. Any person who fails to submit any relevant facts or who has submitted incorrect information in a document shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

HISTORICAL NOTES:

Derived from: Part II of VR 120-01 (§ 120-02-01 through § 120-02-34)

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